STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

REGISTERED MAIL

November 30, 2004

Mr. George Blomberg
Port of Seattle
PO Box 1209
Seattle WA 98111-1209

RE: Water Quality Certification Docket #1784 / Corps No. 200400190 Dredging of up to 27,000 cubic yards of material to achieve a berth depth of minus 50 feet mean lower low water at Terminals 37, 42, and 46 in Elliott Bay, King County, Washington

Dear Mr. Blomberg:

The above-referenced public notice for work in waters of the state has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed in the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law.

Pursuant to Section 307(c) (3) of the Coastal Zone Management Act of 1972, as amended, Ecology concurs with the applicant's determination that the proposed work described in the public notice is consistent with the approved Coastal Zone Management Program of Washington State.

This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order. If you have any questions about this letter or the enclosed Order, please contact Helen Pressley at 360/407-6076.

Sincerely,

Brenden McFarland, Supervisor
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

cc: Penny Keys, Ecology
Jessica Winkler, Corps

DEPARTMENT OF ECOLOGY

In the Matter of Granting a Water	)	**Order # 1784**
Quality Certification/Modification to:	)	**(Corps No. 200400190)**
The Port of Seattle	)	Dredging of up to 27,000 cubic yards
In Accordance with 33 U.S.C. 1341	)	of material to achieve a berth depth
[FWPCA § 401], RCW 90.48.260, RCW	)	of minus 50 feet mean lower low water
RCW 90.48.120	)	in Elliott Bay, King County, Washington

ATTN: Mr. George Blomberg
Port of Seattle
PO Box 1209
Seattle WA 98111-1209

On August 6, 2004, a request for water quality certification was made to the State of Washington for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review and comment by inclusion in Corps Public Notice No. 200400190. No comments were received by the department as a result of the public notice.

Some 27,000 cy of material are proposed to be dredged, with the clean sediment going to the Elliott Bay's PSDDA open-water disposal site. The remaining 7,000 cy would be dewatered at the Port of Seattle, and then removed to an approved upland disposal site. The purpose of the dredging is to increase the depth to -51' MLLW in order to accommodate larger draft ships at these terminals. The Port is proposing 2 feet of overdredging.

This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

AUTHORITIES

In exercising authority under 33 D.S.C. 1341, RCW 90.48.260 and RCW 90.48.120, Ecology has investigated this application pursuant to the following:

Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307),

Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law, and conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the Port of Seattle (Port) subject to the following conditions:

I. Short-term Modification to the Water Quality Criteria:

The dredging and disposal needed may result in the temporary exceedance of certain state water quality

criteria or special conditions specified in Chapter 173-201A WAC. Under WAC 173-201A-110, Ecology may grant a "Short-term Modification to allow for such exceedances of the criteria on a short-term basis when necessary or to otherwise protect the public interest".

A. Water Quality Criteria:

Elliott Bay is classified as a Class A water; thus, Class A water quality standards of 173-201A-030(2) apply, except as specifically modified by this order. Temporary dilution zones, or mixing zones, are authorized for dredging and/or disposal to allow for temporary exceedances of certain water quality standards as a result of disturbing in-place sediments. Within the mixing zones, except as noted, water quality criteria are modified as follows:

1. **Turbidity.** Class A water quality standards for turbidity are waived within the specified mixing zones as outlined within specific conditions of this Order.

2. **Dissolved Oxygen.** Class A within the specified dilution zones, provided that total dissolved oxygen levels do not cause water quality standards for dissolved oxygen to drop below 6.0 mg/L.

B. 303(d) Listings:

Elliott Bay, (WRIA 9, Class A water of the state) is on the current 303(d) list of impaired water bodies for exceeding water quality standards for acenaphthenes, arsenics, benzo(g,h,i,)perylenes, benzyl alcohols, cadmium, copper, 1,4-dichlorobenzenes, dibenz(a,h,)anthracenes, dibenzofurans, fecal coliform, fluorenes, indeno(1,2,3,-cd)pyrenes, lead, phenanthrenes, 1,2,4-trichlorobenzenes, mercury, naphthalenes, total PCBs, and zinc within the immediate project area. This project shall not result in further exceedances of those standards, and will be out of compliance with this certification if discharges from the project exceed limits for those contaminants identified in 173-201A-030(2) WAC and/or 173-201A-040 WAC.

C. Mixing Zones:

Mixing zones and other applicable conditions are specified below under the separate categories of the project. The mixing zones are considered reasonably sufficient to allow for the temporary impacts of the project. All other applicable water quality standards shall remain in effect in the mixing zones and all water quality standards are expected to be met outside of the mixing zones.

D. Duration of the Modification:

Per WAC 173-201A-110, a modification of a water quality criterion (such as turbidity) within a mixing zone is intended for short-term periods of time, ***such as for hours or days rather than weeks or months.*** In this case, Ecology finds that the effects of maintenance dredging are short-term in that dredging/disposal occurs in a matter of days. However, within the context of this certification, no degradation of water quality will be allowed if such degradation is found to significantly interfere with or become injurious to characteristic water uses or cause long-term harm to the environment of Elliott Bay.

E. Work Window:

This modification does not authorize any in-water work during closure periods specified within this Order or the HPA. The work window for this project extends from September 1, 2004 through February 14, 2005.

II. Monitoring:

Water Quality Monitoring shall be done during dredging, contiguous to upland storage areas, and during in-water disposal operations. The following monitoring requirements shall be undertaken to assess the water quality effects of the dredging operations and barge dewatering. The results will be used to: 1) assess compliance with water quality standards; 2) provide notification of any exceedance of a standard; and 3) assess the need for continuing the monitoring activity and appropriate frequency of monitoring. Monitoring results shall be sent weekly to Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.

A. An exceedance of the water quality standards could result in corrective action depending upon the degree of the exceedance and/or the risk posed by the exceedance to beneficial uses of the water body.

B. Monitoring shall be done for a minimum of the first five days of dredging. Monitor 2 times per day at each location.

1. At the monitoring locations, water samples shall be taken at the surface (2.0 feet below), mid-depth, and near bottom (2.0 feet above). Samples taken within the mixing zone and at the mixing zone boundary shall be adjusted within the depth range to target the turbidity plume which will be tracked visually and/or hydro-acoustically. If no distinct turbidity plume can be identified within the depth range, the samples will be taken at the standard depths (i.e., surface, mid-depth, and near bottom).

2. Monitoring points shall be 100 feet upcurrent (representative of background), and at the outer limit of the mixing zone of 600 feet (point of compliance) and at the discharge points.

III. Dredging:

Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.

A. Clamshell Dredging:

1. Dilution Zone: 150 feet radially and 600 feet downcurrent from the point of dredging.
2. Each pass of a clamshell bucket shall be complete with no stockpiling done in the water. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
3. All dredging is to be done using a clamshell dredge. The use of any other type of dredge will require prior approval from Ecology.

B. General Dredging Conditions:

The 27,000 cubic yards of dredged material shall be disposed of in the Elliott Bay open-water site and/or an approved upland disposal site as appropriate. A Dredging Plan is required and shall be made available for review and approval at the pre-construction meeting to be convened at the Seattle District Corps of Engineers office prior to the start of dredging.

VI. Disposal:

The material proposed for dredging has been tested according to the procedures specified in the DMMP, a multi-agency program for the evaluation of dredged material. The proposed disposal of dredged materials would occur at the Elliott Bay Open-Water disposal site.

VII. Plans and Specifications

Work shall be accomplished as per plans and specifications contained within the "Biological Evaluation Port of Seattle Terminal 37, 42, and 46 Dredging" dated April, 2004, and the Addendum to the BE dated June 23, 2004.

VIII. Emergency and/or Contingency Measures:

A. If dredging/disposal results in conditions causing distressed or dying fish, the operator shall immediately take the following actions:

1. Cease operations causing the distressed or dying fish.
2. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
3. The operator shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. Ecology may require such sampling and analyses before allowing the work to resume.
4. Notify the Department of Ecology and the Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

IX. Spill Prevention and Control.

A. Any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited.

B. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall be maintained to prevent vandalism.

C. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled substances and used cleanup materials.

D. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Northwest Regional Office at (425) 649-7000 (a 24-hour phone number).

X. Duration of Water Quality Certification (WQC).

This WQC shall remain in effect for a period of five (5) years from date of issuance. Continuing maintenance dredging beyond the five year term of this Order will require separate certifications every five years.

A. Ecology reserves the option to reassess the terms of this Order and amend or revoke, as necessary, if :

1. New sources of potential contamination are discharged or otherwise stand to significantly affect the quality of sediments dredged from Elliott Bay, or
2. New information indicates that dredging and/or disposal activities are having a significant adverse impact on water quality or characteristic uses in Elliott Bay.

XI. Notification.

A. The Port or their designated contractor shall notify Ecology at least 14 days prior to the scheduled start of dredging in any year. The Ecology person to contact is Helen Pressley at (360) 407-6076 or hpre461@ecy.wa.gov.

B. The Port shall submit an updated application to Ecology if the information contained in the project is altered by route modification or facility relocation submittals to the federal agency and/or state agencies. Within 30 days of receipt of an updated application Ecology will determine if a modification to this Order is required. All submittals shall be sent to the Federal Permit Coordinator at the above address.

XII. General Conditions.

A. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

B. Copies of this Order shall be kept on the job site and readily available for reference by the Port. Ecology retains jurisdiction to make modifications hereto through supplemental order, if it appears necessary to protect the public interest during the construction and monitoring of this project.

C. The Port shall be considered out of compliance with this certification if:

1. The project is constructed and/or operated in a manner not consistent with the description contained in the Corps' Public Notice.

2. Five years elapse between the date of the issuance of this certification and the start of construction and/or discharge. However, the expiration date may be extended by Ecology at the request of the permittee.

XIII. Penalties.

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

XIV. Appeal Process.

Any person aggrieved by this Order (Order #1784) may obtain review thereof by appeal. Pursuant to Ch. 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia WA 98504-7600 and Department of Ecology, SEA Program, Attention Ms. Loree' Randall, PO Box 47600, Olympia WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated Nov 30, 2004 at Lacey, Washington

Brenden McFarland, Supervisor
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology